



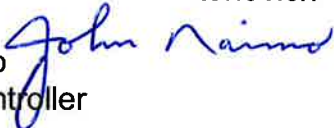
JOHN NAIMO  
AUDITOR-CONTROLLER

**COUNTY OF LOS ANGELES  
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET, ROOM 525  
LOS ANGELES, CALIFORNIA 90012-3873  
PHONE: (213) 974-8301 FAX: (213) 626-5427

October 21, 2016

TO: Supervisor Hilda L. Solis, Chair  
Supervisor Mark Ridley-Thomas  
Supervisor Sheila Kuehl  
Supervisor Don Knabe  
Supervisor Michael D. Antonovich

FROM: John Naimo   
Auditor-Controller

SUBJECT: **PROPOSITION 47 - STATUS OF TRACKING METHODS AND METRICS  
(Board Agenda April 12, 2016, Items 51-A and 51-E)**

On April 12, 2016, as part of two separate motions, the Board of Supervisors (Board) directed the Chief Executive Office (CEO), in conjunction with the Auditor-Controller (A-C), to work with the County departments impacted by Proposition 47 (Prop 47) to develop and implement Prop 47 workload and tracking methods and metrics, provide analysis of existing barriers to data collection and cost impacts, and make recommendations to overcome those barriers, as identified in the A-C's April 5, 2016 "Proposition 47 - Analysis of Cost Savings and Service Improvements" (Board Agenda Item 3, December 1, 2015) report.

The Board also directed the CEO to retain outside expertise to work with each impacted County department to identify and develop the best indicators, metrics, and methodologies to determine cost savings and cost avoidance. In addition, the Board directed a report back with a plan for the timely roll-out of workload and cost savings tracking methods by each department, validation of the estimates contained in the A-C's report, and a proposal for reallocating the validated Fiscal Year (FY) 2015-16 cost savings or increases.

**Background and Scope**

On April 5, 2016, we issued our Prop 47 report that reviewed the impact of Prop 47 for eight County departments: Sheriff's Department (Sheriff), Probation Department (Probation), Public Defender (PD), Alternate Public Defender (APD), District Attorney

(DA), Department of Health Services (DHS), Department of Public Health (DPH), and Department of Mental Health (DMH). As part of the report, the A-C noted that all eight County departments impacted by Prop 47 did not have sufficiently effective procedures in place to accurately track Prop 47 metrics in order to comprehensively assess the impact of the initiative on County operations, including workload, costs, service delivery, and client outcomes, and included recommendations to address these areas.

On September 14, 2016, the CEO and A-C issued the "Proposition 47: Operational and Fiscal Status Report" that included an overview of the departmental barriers to data collection and cost impacts, potential solutions to overcome those barriers, a summary of each department's progress in developing metrics, and a status of the CEO's retention of an outside expert.

For this status report, we obtained the most recent progress made by each County department to identify and begin tracking the workload and impacts attributed to Prop 47. We also included updated statistics and information on the potential impacts of Prop 47 to each department's operations. However, in some instances, the data and statistics included in this report are based on overall workload changes from before to after the passage of Prop 47 since departments continue to experience challenges isolating the portion of their workload directly attributable to Prop 47.

The CEO will separately report back on their analysis of the estimates included in the A-C's April 5, 2016 report and include a proposal for reallocating the validated FY 2015-16 cost savings or increases from or to the relevant County budget unit. In addition, the CEO will provide quarterly status reports on Prop 47 metrics implementation and statistics.

### **Review Highlights**

#### **Workload Tracking Metrics**

The Sheriff, Probation, PD, APD, and DA each have either taken steps to better identify and track their workload changes and outcomes attributed to Prop 47, or are continuing to evaluate and work toward implementing new or additional procedures to improve their ability to identify, track, and assess Prop 47's impact to their operations. In addition, the Health Agency (DHS, DPH, and DMH) is working with the CEO, Information System Advisory Body (ISAB), and the Superior Court to identify potential Prop 47 individuals receiving services. Specifically:

- **Sheriff** - The Sheriff's Patrol Division tracks and maintains several Prop 47 statistics, such as the number of potential offenders (the total number of individuals who are taken into custody for a Prop 47 crime), arrests (the total number of times offenders are taken into custody), charges, repeat offenders,

types of violations, etc., and reports these statistics in a monthly "Proposition 47 Report" to the Board.

The Sheriff's Custody Division is currently limited in their ability to track, refine, and quantify the financial impact attributed to Prop 47 to their operations. Specifically, while the Sheriff can run reports that identify individuals in custody on a Prop 47 charge, they cannot distinguish how many individuals held with a Prop 47 qualifying charge were or will ultimately be sentenced solely under a potential Prop 47 conviction due to decisions made within judicial proceedings (i.e., secondary charges, plea deals, holds, or criminal history). Obtaining this information would require a labor intensive process of reviewing and analyzing each detainee's case history. As a result, developing procedures or metrics to accurately track and estimate potential Prop 47 workload and cost changes presents some difficult and unique challenges.

- **Probation** - Probation tracks probationers who are potentially eligible for Prop 47 relief and those who have been released due to the courts approving their petition.
- **PD** - PD developed and implemented a methodology for estimating workload costs associated with Prop 47 petitions and applications. In addition, PD is in the process of implementing a department-wide case management system that will include metrics such as staff level (e.g., paralegal, attorney, etc.), court location value (i.e., needs of each individual court office), client/case value (e.g., type of charge, client demographics, etc.), etc. The new case management system will assist PD in identifying and monitoring their overall caseload moving forward.
- **APD** - APD developed and implemented a methodology for estimating workload costs associated with Prop 47 petitions and applications. In addition, APD developed a caseload analysis by case category (e.g., misdemeanors, simple felonies, serious and violent felonies, etc.) and are implementing a new department-wide case management system that will assist APD in identifying and monitoring their overall caseload moving forward.
- **DA** - The DA developed and implemented a database to track tasks performed by paralegals associated with reviewing Prop 47 petitions and applications. DA management implemented this database in September 2016, at which time paralegals also began to use their timecards to track time spent on Prop 47 petitions and applications. However, while attorneys, investigators, victim service representatives, and other support staff also provide services that are attributable to Prop 47, the DA does not have plans to track or quantify this time.

In our previous report, we were not able to preliminarily estimate the value of the DA's overall workload change to their operations since relevant information was

not available. The DA subsequently provided department-wide case and related staffing information, and we preliminarily estimate a \$2.1 million workload reduction in FY 2015-16. Since the DA did not reduce staffing levels and costs, this estimated workload reduction does not result in realizable savings. *As indicated in Attachment II, DA management disagrees with this preliminary estimate since it cannot isolate the impact of Prop 47 and other co-occurring factors. However, since the DA does not have additional data (e.g., time spent per case, work performed on cases that are not filed, etc.), we are not able to refine the estimate further at this time.*

- **Health Agency** - DHS, DPH, and DMH are all currently limited in their ability to identify Prop 47 individuals receiving services since the Health Agency's case management systems do not contain criminal history information, and due to confidentiality restrictions that preclude data sharing from the justice departments (Sheriff, Probation, PD, APD, and the DA). However, the Health Agency departments are continuing to work with CEO, ISAB, and the Superior Court to identify potential solutions to overcome the data sharing challenges identified.

In September 2016, the CEO retained the RAND Corporation (RAND) as the outside expert to perform a Prop 47 operational and fiscal analysis. The agreement with RAND includes an operational analysis with recommendations for departments to develop procedures and mechanisms to track Prop 47 operations and corresponding costs and the identification of each department's fiscal costs/savings since the implementation of Prop 47, etc. RAND is scheduled to complete their review by the end of November 2016 and release their final report in January 2017.

The complete results of our review are included in Attachment I.

### **Review of Report**

We discussed our report with each of the eight impacted County departments. To expedite this report, we did not solicit written responses from each department for attachment to this report, as is typically our process. Departments have been advised that they may respond directly to your Board.

We thank management and staff from each department for their cooperation and assistance during our review. If you have any questions please call me, or your staff may contact Robert Smythe at (213) 253-0100.

JN:AB:PH:RS:JU

Attachments

c: Sachi A. Hamai, Chief Executive Officer  
Jim McDonnell, Sheriff  
Jackie Lacey, District Attorney  
Calvin C. Remington, Interim Chief Probation Officer  
Ronald L. Brown, Public Defender  
Janice Y Fukai, Alternate Public Defender  
Robin Kay, Ph.D., Acting Director, Department of Mental Health  
Mitchell H. Katz, M.D., Director, Los Angeles County Health Agency  
Cynthia A. Harding, M.P.H., Interim Director, Department of Public Health  
Lori Glasgow, Executive Officer, Board of Supervisors  
Audit Committee  
Public Information Office

**PROPOSITION 47  
STATUS OF TRACKING METHODS AND METRICS  
FISCAL YEAR 2016-17**

**Background**

On November 5, 2014, California voter initiative Proposition 47 (Prop 47 or Proposition) became law, reducing the classification of certain non-violent and non-serious drug possession and property crimes from felonies to misdemeanors. Individuals who were convicted of these crimes prior to Prop 47 may have their sentence reduced or prior record updated if they also have no prior conviction for a specified violent or sexual offense. To obtain a sentence reduction or record update, individuals must either file a petition for resentencing or an application for reclassification, as applicable. The filings must occur by November 4, 2022, or at a later date upon a showing of good cause. In addition, individuals whose cases are in the pre-conviction phase of a crime that qualifies under Prop 47 may request (generally through oral motions, with no filing required) to have their pending charge reduced from a felony to a misdemeanor.

As detailed in Table 1, below, the number of petitions and applications filed decreased significantly from November 2015 to April 2016 when compared to the time period from May to October 2015. The trend of a reduced number of petitions in more recent quarters may be attributable to a surge after the initial passage of Prop 47. In addition, as of November 5, 2014, all crimes that qualify under Prop 47 are charged as misdemeanors. However, the number of applications filed is anticipated to increase moving forward due to the County's implementation of their Prop 47 outreach and services campaign.

<b>Table 1 Proposition 47 Petitions, Applications, and Pre-convictions Statistics November 2014 through August 2016</b>					
	<b>Nov 2014 to Apr 2015</b>	<b>May 2015 to Oct 2015</b>	<b>Nov 2015 to Apr 2016</b>	<b>May 2016 to Aug 2016 (A)</b>	<b>Total</b>
Petitions	14,223	4,572	2,005	812	21,612
Applications	6,624	8,798	7,265	3,954	26,641
<b>Total New Filings:</b>	<b>20,847</b>	<b>13,370</b>	<b>9,270</b>	<b>4,766</b>	<b>48,253</b>
Pre-convictions	7,059	911	334	132	8,436
<b>Total Prop 47 Workload:</b>	<b>27,906</b>	<b>14,281</b>	<b>9,604</b>	<b>4,898</b>	<b>56,689</b>
(A) Note that this data covers only a four-month time period, instead of a six-month time period.					
Source: Superior Court of California, County of Los Angeles (unaudited)					



On April 5, 2016, the Auditor-Controller (A-C) issued the "Proposition 47 - Analysis of Cost Savings and Service Improvements (Board Agenda Item 3, December 1, 2015)" report that reviewed the impact of Prop 47 for eight County departments:

- Sheriff's Department (Sheriff)
- Probation Department (Probation)
- Public Defender (PD)
- Alternate Public Defender (APD)
- District Attorney (DA)
- Department of Health Services (DHS)
- Department of Public Health (DPH)
- Department of Mental Health (DMH)

As part of the report, the A-C included recommendations that were primarily focused on implementing procedures and mechanisms to improve the accuracy and reliability of Prop 47 workload and cost savings (increases) data/information.

On April 12, 2016, as part of two separate motions, the Board of Supervisors (Board) directed the Chief Executive Office (CEO), in conjunction with the A-C, to implement the recommendations in the A-C's April 5, 2016 report, and to develop and implement Prop 47 workload and tracking methods and metrics, provide analysis of existing barriers to data collection and cost impacts, and make recommendations to overcome those barriers. The CEO was also directed to retain outside expertise to work with each impacted County department to identify and develop the best Prop 47 workload and outcome indicators, metrics, and methodologies to determine cost savings and cost avoidance. In addition, the Board directed a report back with a plan for timely roll-out of workload and cost savings tracking methods by each department, validation of the estimates contained in the A-C's report, and a proposal for reallocating the validated Fiscal Year (FY) 2015-16 cost savings or increases from or to the relevant County budget unit.

On September 14, 2016, the CEO and A-C issued the "Proposition 47: Operational and Fiscal Status Report" that included an overview of the departmental barriers to data collection and cost impacts, potential solutions to overcome those barriers, a summary of each department's progress in developing metrics, and a status of the CEO's retention of the RAND Corporation (RAND) as the outside expert to perform a Prop 47 operational and fiscal analysis. The agreement with RAND includes an operational analysis with recommendations for departments to develop procedures and mechanisms to track Prop 47 operations and corresponding costs and the identification of each department's fiscal cost/savings since the implementation of Prop 47, etc.

In October 2016, the CEO plans to separately report their validation of the A-C's identified Prop 47 cost estimates and a proposal for reallocating any identified Prop 47 cost savings or cost increases. In addition, the CEO will provide quarterly status reports on Prop 47 metrics implementation and statistics.

### Scope

As directed by the Board, the A-C and CEO worked with each of the eight impacted County departments to assist in the preliminary identification and development of Prop 47 indicators, metrics, methodologies, barriers to data collection and cost impacts, and recommended solutions to overcome those barriers.

Our report includes the current progress made by each department to identify and begin tracking Prop 47 workload and impacts. However, the identification of other potential Prop 47 metrics is pending RAND's analysis. RAND is scheduled to complete their review by the end of November 2016 and release their final report in January 2017.

We also included updated statistics and information on the potential impacts of Prop 47 to each department's operations. However, in some instances, the data and statistics included in this report are based on overall workload changes from before to after the passage of Prop 47 since departments continue to experience challenges isolating the portion of their workload directly attributable to Prop 47.

Our review is primarily based on discussions with subject matter experts within each of the impacted County departments, and updated documentation provided by these same departments on their respective workload changes, staffing, etc. We also consulted with the Information System Advisory Body (ISAB), as directed by both motions, and the CEO.

### Departmental Statuses

#### Sheriff

The Sheriff's Patrol and Custody Divisions both have experienced workload changes or shifts since Prop 47 took effect. For example, the Sheriff's Patrol Division's statistics indicate an increase in larceny thefts (all grand and petty thefts except motor vehicles) and a decrease in arrests for certain drug crimes. The Custody Division has had changes within their jail population that may be partially attributed to Prop 47. Additional details of each Division's efforts to implement workload and outcome tracking methods are indicated below.

**Patrol** - The Sheriff's Patrol Division tracks and maintains several Prop 47 statistics, such as the number of potential offenders (the total number of individuals who are taken into custody for a Prop 47 crime), arrests (the total number of times offenders are taken into custody), charges, repeat offenders, types of violations, etc., and reports these statistics in a monthly "Proposition 47 Report" to the Board. The Sheriff continues to refine their reported information to provide better indicators of changes and the impacts from the passage of Prop 47. Table 2 provides a sample of the Prop 47 information that the Sheriff maintains and reports:



<b>Table 2</b> <b>Sheriff Prop 47 Patrol Statistics</b> <b>Proposition 47 Report - November 5, 2014 to August 31, 2016</b>	
	<b>November 5, 2014 to</b> <b>August 31, 2016</b>
<b><u>Sheriff Department:</u></b>	
Total Offenders	19,886
Repeat Offenders	11,161
Total Arrests (A)	30,759
Repeat Arrests (A)	20,800
<b><u>Los Angeles County (B):</u></b>	
Total Offenders	51,437
Repeat Offenders	25,809
Total Arrests (A)	84,939
Repeat Arrests (A)	69,112
(A) Note that one offender can be arrested multiple times.	
(B) Includes the Sheriff, Los Angeles Police Department, and other agencies.	
Source: Sheriff's Automated Jail Information System (AJIS) (unaudited)	

Sheriff Patrol management indicated that there have been workload shifts in the type of arrests (e.g., possession of controlled substances, theft, etc.). However, since the implementation of Prop 47 there have been no increases or decreases in Patrol personnel attributed to the effects of Prop 47. As a result, the Sheriff does not have any Prop 47 savings or cost increases related to Patrol.

**Custody** - The Sheriff's Custody Division is currently limited in their ability to track, refine, and quantify the financial impact attributed to Prop 47 to their operations. Based on our discussions with Sheriff management, there are unique challenges that appear to make it very difficult or prevent them from being able to develop procedures or metrics to accurately track and estimate any potential cost savings or the value of workload changes that are attributed to the passage of Prop 47. Specifically:

#### Inmates in the Sheriff's Jail Facilities

The Sheriff has some individuals who are currently in custody or have been convicted on a Prop 47 charge who are held pending resolution of secondary charges. Sheriff management indicated that while they can produce a statistical snapshot of the number of individuals held with a Prop 47 qualifying charge, they cannot distinguish how many were or will ultimately be sentenced solely under a potential Prop 47 conviction due to decisions made within judicial proceedings (i.e., secondary charges, plea deals, holds, or criminal history). For example, an individual may be in custody for a non-Prop 47 charge, but during the judicial proceedings accepts a plea deal to a potential Prop 47 conviction. The Sheriff indicated that to identify the potential Prop 47 portion of the cases of individuals in custody would be very labor intensive since it would require the Sheriff to analyze each detainee's case history and determine how that case was dispositioned by the court.

**Sheriff Inmate Populations and Releases**

As mentioned, the Sheriff's Custody Division continues to experience challenges in identifying the number of Prop 47 inmates in custody and estimating the impact of Prop 47 to their operations. However, we noted that inmate population and release statistics the Sheriff maintains can be used to identify potential impacts of Prop 47 and other changes to the inmate population. In our April 5, 2016 report, we noted that the estimated average daily inmate population and the early releases due to housing capacity declined from the year prior (November 2013 to October 2014) to the year after (November 2014 to October 2015) Prop 47 took effect.

Per Sheriff's management, since the passage of Prop 47 a significant portion of the individuals who are arrested on a Prop 47 charge are cited and released unless they have a prior conviction for a specified violent or sexual offense. As indicated in Table 3, below, Sheriff's data indicates the estimated average daily inmate population continued to decline over the past ten months (November 2015 to August 2016) by an average of 515 (3%) inmates (17,150 - 16,635) when compared to the 12-month period after Prop 47 took effect (November 2014 to October 2015). In addition, the average number of monthly early releases due to housing capacity increased by 183 (10%) inmates per month (1,957 - 1,774), and the population of inmates with mental health needs also increased by 527 (15%) inmates per month (4,137 - 3,610) over that same time period.

<b>Table 3</b> <b>Sheriff Inmate Population</b> <b>Before and After Prop 47 Implementation - November 2013 to August 2016</b>			
	<b>Nov 2013 to</b> <b>Oct 2014</b>	<b>Nov 2014 to</b> <b>Oct 2015</b>	<b>Nov 2015 to</b> <b>Aug 2016 (A)</b>
<b>Estimated Average Daily Inmate Population</b>	18,990	17,150	16,635
<b>Estimated Average Monthly Early Releases (Due to Housing Capacity)</b>	2,685	1,774	1,957
<b>Estimated Average Monthly Inmate Population with Mental Health Needs</b>	3,460	3,610	4,137
(A) Note that this time period covers ten months and not a full year.			
Source: Sheriff's Replicated Automated Jail Information System (RAJIS) (unaudited)			

The Sheriff also provided statistics indicating that the percentage of custody time served in the year before implementation of Prop 47 was approximately 20%. The percentage of time served increased to up to 90% the following year, and from May through August 2016 the percentage decreased to and remained at 30%.

Sheriff Custody management indicated that the changes in inmate population from before to after Prop 47 took effect (as indicated in Table 3), and changes in the percentage of time served, are attributable to a variety of factors irrespective of Prop 47 such as the reduction of the inmate population to address jail overcrowding, jail

maintenance closures, and the expansion of mental health housing space to accommodate the change in the mental health demographics of the inmate population. In addition, Sheriff management indicated that since the jails remain over their rated bed capacities, the reduction in the Prop 47 inmate population does not result in any realizable cost savings since any space vacated as a result of Prop 47 is immediately filled with inmates who were previously being released early due to jail overcrowding.

### **Probation**

Probation tracks probationers who are potentially eligible for Prop 47 relief and those who have already been released due to the courts approving their petition. At the time Prop 47 passed, 15,329 (or 30% of their total population) probationers were potentially eligible for Prop 47 relief. As of September 1, 2016, a total of 10,603 probationers had their Prop 47 petition approved by the courts and were released from Probation's supervision, and 564 have filed their Prop 47 petition, but are pending and remain under Probation's supervision.

In our previous report, we indicated that as of October 2015, Probation's overall workload had decreased since the passage of Prop 47. However, from November 2015 through July 2016, Probation's overall workload has generally increased. While overall staffing has remained stable (470 in October 2015 to 469 in July 2016), Probation shifted some staffing to high risk and Public Safety Realignment Act (AB109) caseloads. In addition, Probation continually receives new felony probation cases and transferred cases from other counties. As a result, caseload per Deputy Probation Officer (DPO) has increased for medium and low risk cases by 24 and 74, and decreased for high risk and AB109 cases by 7 and 5, respectively. See Table 4, below, for the caseload levels per DPO by risk level.

<b>Table 4</b> <b>Probation Caseload per DPO by Risk Level</b> <b>Workload Reduction</b>				
<b>Risk Rating (A)</b>	<b>As of Sept 2014 (B)</b>	<b>As of Oct 2015</b>	<b>As of July 2016</b>	<b>Increase/Decrease (2015 vs 2016)</b>
<b>High Risk</b>	91	79	72	<b>(7)</b>
<b>Medium Risk</b>	52	55	79	<b>24</b>
<b>Low Risk</b>	688	639	713	<b>74</b>
<b>AB109</b>	42	38	33	<b>(5)</b>

(A) Risk rating is determined by eight factors including alcohol abuse, illegal drug abuse, gang, age at first conviction, prior probation grant, prior probation revocation, prior conviction (adult and juvenile) and the current offence. The factors are scored and total risk rating is determined.

(B) Probation management indicated that caseload levels for September 2014 may be understated due to vacancies since they could not verify staffing levels for that time period.

Source: Probation (unaudited)

Probation management continues to indicate that even after the passage of Prop 47, their caseloads remain above national caseload standards and surrounding counties. In

addition, Probation management indicated that they are in preliminary discussions with the courts to potentially assist them with monitoring misdemeanor probationers.

### **PD**

The PD developed and implemented a methodology for estimating workload costs associated with Prop 47 petitions and applications, which lists all tasks associated with reviewing and filing, the staff required for the tasks, and the estimated time spent. Based on this methodology, PD estimated they have spent approximately \$12.6 million on Prop 47 legal relief efforts.

In our previous report, we indicated that PD's overall caseload at their felony offices we sampled as of November 2015 increased after the passage of Prop 47. As of August 2016, PD's caseload for the same sampled felony offices has increased by 17% since November 2015. This is partly due to an increase in new cases, an increase in more serious and violent cases, and a decrease in staffing.

Subsequent to our previous report and moving forward, PD is implementing a new department-wide case management system. As part of the case management system, PD is developing metrics that include staff level (e.g., paralegal, attorney, etc.), court location value (i.e., needs of each individual court office), and a client/case value (e.g., type of charge, client demographics, etc.). While PD cannot isolate Prop 47 cases, the new case management system will enable PD to better identify and monitor the overall caseload moving forward.

### **APD**

The APD developed and implemented a methodology for estimating workload costs associated with Prop 47 petitions and applications, which tracks tasks associated with reviewing and filing, the staff required for each task, and the estimated time per task. In addition, the APD tracks cost associated with community events related to Prop 47. Based on this methodology, the APD estimates they have spent approximately \$598,000 on Prop 47 legal relief efforts.

In our previous report, we indicated that as of October 2015, APD's overall caseload increased after the passage of Prop 47. Subsequent to our previous report, APD developed a caseload analysis by case category and is currently in the process of implementing a new case management system that will allow APD to better identify and monitor the overall department-wide caseload moving forward. See Table 5, below, for the caseload changes by category through July 2016.

Overall, monthly caseloads have increased from November 2015 to August 2016, primarily in misdemeanors and non-serious/non-violent felonies (i.e., increase of 212 and 29 cases per month, respectively). While the number of total non-serious/non-violent felonies per month is still lower than prior to Prop 47 (November 2014), the



average number of simple felonies per month has been trending upwards since November 2015.

<b>Table 5</b> <b>APD Average Monthly Caseload</b> <b>Workload Changes by Case Category - November 2013 to August 2016</b>					
	Nov 2013 to Oct 2014	Nov 2014 to Oct 2015	Nov 2015 to Aug 2016	Difference (Year 1)	Difference (Year 2)
Misdemeanor	989	1102	1314	113	212
Non-Serious/Non-Violent Felonies	708	435	464	(273)	29
AB109 and California Department of Corrections and Rehabilitation	155	160	140	5	(20)
Serious/Violent (non-life sentence)	202	222	235	20	13
Serious/Violent (life sentence)/Special Circumstance	35	40	38	5	(2)
Source: APD (unaudited)					

While APD cannot isolate Prop 47 cases in their ongoing caseload, management indicated that Prop 47 directly impacted the workload of misdemeanors, non-serious/non-violent felonies, and AB109 cases. In addition, they indicated that Prop 47 potentially had an indirect impact on the workload of serious/violent (non-life sentence) cases, but did not impact the serious/violent (life sentence) or special circumstance cases.

## **DA**

The DA developed and implemented a database to track tasks performed by paralegals associated with reviewing Prop 47 petitions and applications. DA management implemented the database on September 1, 2016. In addition, paralegals are now using their timecards to track time they spend on Prop 47 petitions and applications. However, the DA does not have plans to track or quantify the time by their attorneys, investigators, victim service representatives, and other support staff providing services that are attributable to Prop 47. The DA has reviewed all 56,689 petitions, applications, and pre-conviction motions that are detailed in Table 1. Since the DA does not have paralegal workload data prior to September 1, 2016, and since they do not have workload data for the other staff, the DA is not able to estimate the cost associated with these tasks at this time.

In our previous report, we were not able to preliminarily estimate the value of the DA's overall workload change to their operations since relevant information was not available. In accordance with the Board motion, the DA subsequently provided department-wide case and related staffing information. For the 12 months after Prop 47 took effect, we preliminarily estimate a \$2.1 million workload reduction in FY 2015-16 based on a decrease in the DA's overall caseload. However, this estimated workload reduction does not result in realizable savings since the DA did not reduce staffing levels and costs. As indicated in Attachment II, DA management disagrees with this



preliminary estimate since it cannot isolate the impact of Prop 47 and other co-occurring factors. However, since the DA does not have additional data (e.g., time spent per case, work performed on cases that are not filed, etc.), we are not able to refine the estimate further at this time. In addition, as mentioned, RAND is further analyzing the prospective cost/savings resulting from Prop 47 operational changes for the DA and the other impacted departments as part of their January 2017 report back. We discuss our review of the quantity of cases below.

Similar to PD and APD, the DA has seen an increase in its average monthly felony caseload since November 2015 even though caseload levels still remain lower than prior to Prop 47. Specifically, the DA has seen an increase of 176 total felonies per month and 499 serious/violent felonies per month since November 2015. See Table 6, below, for caseload changes by category through August 2016.

<b>Table 6</b> <b>DA Average Monthly Caseload</b> <b>Workload Changes by Case Category - November 2013 to August 2016</b>					
	Nov 2013 to <u>Oct 2014</u>	Nov 2014 to <u>Oct 2015</u>	Nov 2015 to <u>Aug 2016</u>	Difference <u>(Year 1)</u>	Difference <u>(Year 2)</u>
Adult Felonies (All) (A)	20,136	17,263	17,438	(2,873)	176
Adult Felonies (Serious/Violent)	9,828	9,703	10,202	(125)	499
Adult Misdemeanors	27,745	31,100	30,628	3,356	(472)
Juvenile Felonies (All) (A)	3,434	2,992	2,711	(442)	(281)
Juvenile Felonies (Serious/Violent)	1,560	1,476	1,361	(84)	(115)
Juvenile Misdemeanors	1,923	1,591	1,454	(332)	(137)
Juvenile Other	64	53	43	(11)	(10)
(A) Note that this includes Serious/Violent felonies.					
Source: DA (unaudited)					

As with PD and APD, the DA cannot isolate Prop 47 cases in their ongoing caseload. DA management indicated that they are interested in developing a new case management system, which would require additional funding and Board approval. The DA will evaluate their needs and report back if necessary.

### **Health Agency (DHS, DPH, and DMH)**

As mentioned in our September 14, 2016 report with the CEO, the Health Agency departments are limited in their ability to identify Prop 47 clients since their records and case management systems do not contain criminal history information, and due to confidentiality restrictions that preclude data sharing from the justice departments (Sheriff, Probation, PD, APD, and the DA). As a result, the Health Agency departments are currently dependent on client self-reporting and referrals from 211 LA County that collectively are not complete or reliable since they only represent a small portion of the individuals impacted by Prop 47. The Health Agency departments will continue to work

with the CEO, ISAB, and the court to identify and develop data sharing solutions. In addition, the Health Agency departments will be working with RAND during their review and analysis.

Since the Health Agency departments are not yet able to isolate Prop 47 workload data, we obtained updated overall workload statistics since our April 2016 report. Below are details of the updated statistics for DHS, DPH, and DMH.

## **DHS**

DHS reported an overall reduction in both inpatient and outpatient inmate health services performed at DHS facilities from FY 2014-15 to FY 2015-16 (since monthly data was not available). Specifically, DHS saw a reduction of inpatient inmate days of 1,031 (or 11% of 9,730), and a reduction of outpatient inmate days of 2,542 (or 14% of 18,251).

In addition, DHS management indicated that as of September 2016, they absorbed approximately 550 medical staff within the Sheriff's jail facilities, and will continue to absorb an additional 1,500 medical staff incrementally as part of the Integrated Correctional Health System implementation approved by the Board. While data is not yet available for the workload in jail facilities, this represents an increased DHS cost and workload.

## **DPH**

DPH reported an increase of expenditures to contracted service providers for the Adult Drug Court, Sentence Offender Drug Court, and AB109. Specifically, DPH spent approximately \$1 million more from October 2015 through August 2016, which is a 7% increase from November 2014 through September 2015. In addition, DPH reported that, as of March 2016, 65 clients who were under their AB109 program had their application approved by the courts, of which 55 continued with treatment.

DPH management indicated that since they receive outside funding for services provided, these changes do not impact their budget.

## **DMH**

DMH reported average monthly expenditures to contracted mental health providers of \$71.7 million for November 2015 through August 2016, which is a \$2.5 million (3%) decrease from the 12 prior months. DMH also reported average monthly expenditures of \$23.5 million for directly operated mental health services from November 2015 through August 2016, which is a \$1.3 million (6%) increase from the 12 prior months.

In addition, DMH reported that, as of September 30, 2016, 528 clients who were under their AB109 program had their applications approved by the courts, of which 184 continued with treatment.



JACKIE LACEY  
LOS ANGELES COUNTY DISTRICT ATTORNEY

HALL OF JUSTICE  
211 WEST TEMPLE STREET, SUITE 1200 LOS ANGELES, CA 90012-3205 (213) 974-3500

October 20, 2016

Mr. John Naimo, Auditor-Controller  
Los Angeles County  
Hall of Administration  
500 West Temple Street, Room 525  
Los Angeles, California 90012

Dear Mr. Naimo:

I recently reviewed a draft document prepared by your office entitled "Preliminary Estimate of Soft Costs Savings/Increases for the District Attorney's Office." I and members of my office have reviewed the draft document and I am very concerned its contents may lead the Board of Supervisors and other readers to the wrong conclusion.

Proposition 47 became effective November 5, 2014, changing the status of certain felonies to misdemeanors. The information in the draft document focused on the 12 months preceding Proposition 47 compared with the 12 months following its enactment. The draft document highlighted that in the 12 months following Proposition 47's enactment there were 302 less cases filed. As a result, it was concluded that there could be a "soft" savings in positions of 12.28 staff or \$2,062,238.08 in salaries and employee benefits. I understand this conclusion was reached, in part, based on the number of cases filed and "on-hand" in any given month and with consideration of all of our employees who had any interaction with a case in the same time frame. The draft document also references an "average monthly case per staff."

My concerns with the conclusion are many. The District Attorney's Office does *not* have an "average case number per staff." Cases are assigned based on a myriad of reasons including the level of complexity, the time it may take to resolve, the investigation required, and much more. Merely looking at the number of cases filed and "on-hand" does not take into account the multitude of other tasks done by District Attorney personnel on a daily basis while also providing court room coverage. For example, law enforcement agencies throughout the county present hundreds of cases to deputy district attorneys which are reviewed and analyzed but do not result in a case filing – those numbers are not reflected in your analysis. District Attorney personnel also provide victim services even when a case is not filed. Other tasks not taken into consideration in reaching the "soft" savings conclusion include the post-conviction handling of cases. Post-conviction matters include very difficult and time consuming appeals, habeas corpus proceedings, third-strike resentencing, discovery pursuant to penal code section 1054.9 (discovery on death penalty and life without parole cases) and conviction review. Also, your

Mr. John Naimo, Auditor-Controller  
October 20, 2016  
Page Two

analysis failed to consider the lengthy and complex investigations which are completed by special prosecuting units such as our Public Integrity Division, Justice System Integrity Division, and Cyber Crimes Division. In addition, pre-filing diversions for adults and juveniles; lengthy investigations and prosecution of serious and violent crimes; Brown Act investigations, and most recently, petitions and applications resulting from Proposition 47 were not taken into account.

I understand your difficulty and efforts to provide the Board of Supervisors with information regarding the effects of Proposition 47. However, to not take into consideration all of the above factors, while producing a document purporting to explain "soft savings" will lead to a misleading and invalid interpretation that there are "real cost" savings as a result of Proposition 47. At this time, there is no clear way to determine that there is any type of cost savings from Proposition 47, and it also possible that an in-depth analysis may show an increase in costs.

Your attention to the aforementioned factors, as you finalize your response to the Board of Supervisors, is essential to presenting an accurate depiction of what is known and not known about the financial impact of Proposition 47. My team is available to work with your staff on future drafts that would accurately show the financial impact of Proposition 47. Please contact Priscilla Cruz, Director of the Bureau of Administrative Services at (213) 257-2774, [pcruz@da.lacounty.gov](mailto:pcruz@da.lacounty.gov), for assistance.

Very truly yours,



JACKIE LACEY  
District Attorney

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